

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KATHERINE MOUSSOURIS, HOLLY
MUENCHOW, and DANA PIERMARINI, on
behalf of themselves and a class of those
similarly situated,

Plaintiffs,

v.

MICROSOFT CORPORATION,
Defendant.

Case No. 2:15-cv-01483-JLR

**DEFENDANT MICROSOFT
CORPORATION'S MOTION TO SEAL
ITS OPPOSITION TO MOTION TO
EXCLUDE CERTAIN OPINIONS OF
DEFENDANT'S EXPERT ALI SAAD**

NOTE ON MOTION CALENDAR:
MARCH 23, 2018

MICROSOFT'S MOTION TO SEAL ITS
OPPOSITION TO MOTION TO EXCLUDE
CERTAIN OPINIONS OF EXPERT ALI SAAD
Case No. 2:15-CV-01483-JLR

ORRICK, HERRINGTON & SUTCLIFFE LLP
701 Fifth Avenue, Suite 5600
Seattle, Washington 98104-7097
+1-206-839-4300

Pursuant to Civil Local Rules 5(g) and 7(d), Defendant Microsoft Corporation (“Microsoft”) files this motion to seal narrowly tailored portions of its Opposition to Motion to Exclude Certain Opinions of Defendant’s Expert Ali Saad (“Opposition”). Specifically, Microsoft requests that the Court seal one portion of page two of the Opposition brief containing information the Special Master previously agreed should be sealed.¹

Documents reflecting this information have been designated as “Confidential” or “Highly Confidential” by Microsoft under the Parties’ Stipulated Protective Order. Dkt. 48. Microsoft certifies that pursuant to Local Rule 5(g)(3)(A), it previously met and conferred in good faith with Plaintiffs’ counsel in an attempt to reach agreement on the need to file this information under seal. Dkt. 269 at 1.

Compelling reasons exist to seal this portion of the Opposition brief. The information contained in the Opposition brief reflects confidential human resources strategy describing how Microsoft evaluates employees for compensation and promotion. Disclosure of this confidential business information would cause Microsoft competitive harm. Microsoft has previously moved to seal this confidential business information and incorporates by reference the arguments made in Docket No. 269 at 9-12, Docket No. 283 at 4-7, and Docket No. 358 at 2-4 as if fully set forth herein. This portion of the Opposition brief paraphrases MSFT_MOUSSOURIS_00004283. The Special Master’s February 16, 2018 Report and Recommendation on Motions to Seal granted Microsoft’s motions to seal MSFT_MOUSSOURIS_00004283 because it contained “Confidential Human Resource Strategies.” See Dkt. 351 at 21-24, 44. The Court adopted the Special Master’s Report and Recommendation on March 1, 2018. Dkt. 369.

Accordingly, Microsoft respectfully requests that the Court seal this portion of the Opposition brief.

¹ In accordance with Local Rule 5(g), Microsoft has limited the materials to be sealed as much as possible. Microsoft sets forth in detail the specific portion of the Opposition brief that it seeks to seal in the redacted version of the Opposition to Motion to Exclude Certain Opinions of Defendant’s Expert Ali Saad and [Proposed] Order submitted concurrently herewith.

1 Dated: March 9, 2018

ORRICK, HERRINGTON & SUTCLIFFE LLP

2
3 By: *s/Mark S. Parris*
4 *s/Lynne Hermle*
s/Jessica R. Perry

5 Mark S. Parris (WSBA No. 13870)
6 mparris@orrick.com

7 701 Fifth Avenue
8 Suite 5600
9 Seattle, Washington 98104
10 Telephone: +1-206-839-4300
11 Facsimile: +1-206-839-4301
12 Attorneys for Defendant

13 Lynne C. Hermle (Admitted *pro hac vice*)
14 lchermle@orrick.com

15 Jessica R. Perry (Admitted *pro hac vice*)
16 jperry@orrick.com

17 1000 Marsh Road
18 Menlo Park, California 94025
19 Telephone: 650-614-7400
20 Facsimile: 650-614-7401

21 Dated: March 9, 2018

MICROSOFT CORPORATION

22 By: *s/David Howard*

23 David Howard (WSBA No. 45211)
24 Corporate Vice President and Deputy General
25 Counsel, Litigation
26 dhoward@microsoft.com

27 1 Microsoft Way
28 Redmond, Washington 98052
Telephone: +1-425-704-8685

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2018, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of the filing to all counsel of record.

DATED: March 9, 2018

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: s/Mark S. Parris
Mark S. Parris (WSBA No. 13870)
mparris@orrick.com

701 Fifth Avenue, Suite 5600
Seattle, WA 98104-7097
Telephone: 206-839-4300
Facsimile: 206-839-4301